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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Michael Lacey, et al.,

Defendants.

CR-18-422-PHX-SMB (BSB)

**UNITED STATES' RESPONSE TO
MOTION FOR EXTENSION OF
TIME TO DISCLOSE ANTICIPATED
INITIAL AND REBUTTAL EXPERT
TESTIMONY [Doc. 498]**

The United States opposes Defendants' motion to extend time to disclose anticipated and initial rebuttal expert testimony. Due to a miscommunication among the government attorneys, an email responding to defense counsel's request was never sent. If, however, the email had been sent, it would have objected to the continuance and addressed the following issues:

1 First, the government does not agree that Defendants need additional time to
2 disclose experts. The deadline has been set since the Court issued the Scheduling Order
3 on May 2, 2018 (Doc. 131), and the government timely filed its expert disclosures on
4 December 14, 2018 (Doc. 422).

5 Second, the government doesn't share Defendants' view that the government has
6 failed to satisfy its obligations under Rule 16. For all the reasons discussed in the
7 government's status memorandum (Doc. 444), the government believes it has met its
8 obligations through, among other things, producing 10.6 million pages in an agreed-upon
9 electronic format, providing indices and "hot documents," along with access to a DOJ
10 discovery specialist, all in an effort to help Defendants navigate the voluminous discovery.
11 (Doc. 444 at 2.)

12 Third, and finally, the government doesn't understand defendants Lacey, Larkin,
13 Spear, and Brunst's argument that they "hav[e] no funds to hire experts." (Doc. 498 at 4.)
14 As the government highlighted in its recent response to Defendants' motion to dismiss,
15 these four defendants have received over \$1.5 million in untainted funds between August
16 2018 and early January 2019. (Doc. 476 at 17.) Clearly, they have sufficient funds
17 available to them in order to provide "rebuttal and/or initial expert disclosures, if any" as
18 required by the Court's Scheduling Order.

19 For these reasons, the government requests the Court deny Defendants' motion for
20 extension of time to disclose anticipated initial and rebuttal expert testimony.

21 Respectfully submitted this 14th day of March, 2019.

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Certificate of Service

I hereby certify that on this date, March 14, 2019, I transmitted the foregoing under-seal document for filing to the Clerk of the United States District Court and sent a copy via electronic mail to: Paul J. Cambria Jr. Esq. and Erin e. McCampbell, Esq., Lipsitz Green Scime Cambria, LLC, 42 Delaware Ave, Suite 120, Buffalo, NY 14202, **pcambria@lglaw.com** and **emccampbell@lglaw.com**, Thomas H. Bienert, Jr., Esq., Anthony R. Bisconti, Esq., Kenneth M. Miller, Esq., and Whitney Bernstein, Esq., Bienart, Miller & Katzman, PLC, 903 Calle Amanecer, Suite 350, San Clemente, CA 92673, **tbienert@bmkattorneys.com**, **tbisconti@bmkattorneys.com**, **kmiller@bmkattorneys.com**, **wbernstein@bmkattorneys.com**; Davis Wright Termaine, LLP, 1201 Third Avenue, Suite 2200, Seattle, WA 98101, **jimgrant@dwt.com**; Michael D. Kimerer, Esq. and Rhonda Elaine Neff, Esq., 1313 E. Osborn Road, Suite 100, Phoenix, AZ 85014, **MDK@kimerer.com** and **rneff@kimerer.com**; Robert Corn-Revere Esq., Davis Wright Termaine, LLP, 1919 Pennsylvania Avenue N.W., Suite 800, Washington, D.C., 20006, **bobcornrevere@dwt.com**; Bruce Feder, Esq., 2930 East Camelback Road, Suite 160, Phoenix, AZ 85016, **bf@federlawpa.com**; Gary Linenberg, Esq., Ariel Neuman, Esq., Gopi K. Panchapakesan, Esq., Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C., 1875 Century Park East, 23rd Floor, Los Angeles, CA 90067, **glincenberg@birdmarella.com**, **aan@birdmarella.com**, **gkp@birdmarella.com**.

s/ Angela Schuetta
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